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CITY OF HIGHLAND PARK

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Via Certified Mail to:

William Caton, Office of the Secretary, FCC, 1919 M Street NW, Room 222, Washington, D.C. 20554

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**In the Matter of
the order adopting rules for Open Video Systems or OVS.**

CS Docket No. 96-46

COMMENTS OF

**Karen Ryan, City of Highland Park
Cable Television Commission
City Hall, 1707 St. Johns Avenue
Highland Park, Illinois 60035**

The City of Highland Park Cable Television Commission files these comments on July 19, 1996 in regard to the FCC's order to adopt rules for Open Video Systems (OVS), CS Docket No. 96-46. We feel this order is a way for phone companies to enter the cable market – NOT for cable companies to expand its services.

The rules are unfavorable to communities such as Highland Park in that they:

1) Continue to create a risk of a two-thirds reduction in franchise fees because the rules state that such fees are computed based on monies that subscribers pay the OVS operator directly, NOT on revenues that a subscriber may pay directly to a third-party programmer. For the City of Highland Park, this causes a substantial loss of in-lieu-of rights-of-way compensation, possibly up to \$150,000 per year.

Although the rules allow an OVS provider to control up to one-third of the programming on an OVS system, an OVS provider may seek to control an even smaller proportion of programming than one-third. This scenario, if realized, would cut into municipal in-lieu-of franchise fees even further. More importantly, the amount of in-lieu-of franchise fees should be computed based on what a subscriber pays for all programming received by the subscriber carried on the Open Video System, as it is the total system, not a portion of it, which is buried on public property or on lands where the public trust has a proprietary interest. The main issue which the City of Highland Park believes is essential in understanding is that fees in-lieu-of franchise fees should not be based on what a subscriber pays third-party programmers, but rather should be based on what subscribers pay for receiving programming on the system itself.

2) Allow cable companies to switch to OVS where there is sufficient competition that cable rates cannot be regulated. The City of Highland Park believes that a cable operator should not be allowed to switch to an OVS operation if a competitive environment already exists. Congress intended OVS to be a vehicle by which telecommunications providers, such as telephone companies, could enter a cable television market and inject competition through use of a flexible telecommunications platform.

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City of Highland Park – Cable Television Commission
CS Docket No. 96-46

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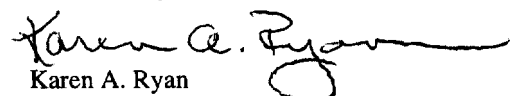
The OVS platform enables a telephone company or other telecommunications provider to compete for the video services marketplace with a cable operator, although the cable operator's technological plant and platform may differ. By allowing a cable operator to become an OVS operator, the long-term effect upon expiration of an existing cable franchise will be less responsibility and accountability to franchising authorities and the public, less ability for municipalities to manage their rights-of-way since fees in-lieu-of franchise fees would be significantly cut (see above) and services to communities provided by the cable operator, such as institutional networks and access programming, would be negatively impacted under the current rules.

3) Provide vague language on I-NETS, such that clarification is needed. The City of Highland Park has extensively utilized its I-Net for 10 years. This network carries data, voice and video applications to a wide variety of facilities, including City government, Park District, Public Library and school buildings. The language of the Commission's recent rulemaking concerns us in that it would appear that the Commission views an I-Net within an Open Video System as a substitute for public, educational and governmental programming channels which are commonly placed on the subscriber network – not on an I-Net. The City of Highland Park favors use of its I-Net, which allows for public interaction in order to facilitate better communication between the public and local government, park and library facilities, and for students in the classroom. The City and other institutional I-Net users wish to continue using the I-Net for dedicated purposes, such as transmitting data, video, voice and multimedia between user facilities.

It should be noted that public, educational and governmental channels in Highland Park include programming produced by the City government, the Park District of Highland Park, the Highland Park Public Library and public access users. These channels provide information and entertainment produced for cable subscribers. These channels are able to meet the needs of cable subscribers because they are readily accessible to subscribers in their homes. The City believes that the OVS rules regarding I-Nets confuse the role of PEG channels (part of a cable subscriber's basic service tier) with the role of an I-Net, which is not provided to subscriber households. Therefore, the City of Highland Park recommends that the Commission revamp its rules to reflect the use of an I-Net as an internal network. The OVS rules should not place a community which has an I-Net in a position where it would be forced to replace its PEG channels with I-Net services.

The Cable Television Commission of the City of Highland Park appreciates the time you've taken to review our comments pertaining to this matter

Submitted by:



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Commission
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